

STATE OF MICHIGAN  
COURT OF APPEALS

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PARTNERSHIP 19 LIMITED DIVIDEND  
HOUSING ASSOCIATION,

UNPUBLISHED  
August 16, 2011

Plaintiff/Counterdefendant-  
Appellant,

V

CARROLLTON TOWNSHIP,

No. 298763  
Saginaw Circuit Court  
LC No. 07-063920-CK

Defendant/Counterplaintiff-  
Appellee.

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Before: BECKERING, P.J., and FORT HOOD and STEPHENS, JJ.

PER CURIAM.

Plaintiff<sup>1</sup> appeals as of right the trial court's opinions and orders granting defendant's motions for summary disposition. We affirm.

A trial court's ruling on a motion for summary disposition presents a question of law subject to review de novo. *Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 486 Mich 311, 317; 783 NW2d 695 (2010). The moving party has the initial burden to support its claim for summary disposition by affidavits, depositions, admissions, or other documentary evidence. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). The burden then shifts to the nonmoving party to demonstrate a genuine issue of disputed fact exists for trial. *Id.* The nonmoving party may not rely on mere allegations or denials in the pleadings. *Id.* Affidavits, depositions, and documentary evidence offered in support of, and in opposition to, a dispositive motion shall be considered only to the extent that the content or substance would be admissible as evidence. *Maiden v Rozwood*, 461 Mich 109, 120-121; 597 NW2d 817 (1999).

An appellate brief must contain a statement of all material facts, both favorable and unfavorable, presented fairly without argument or bias. MCR 7.212(C)(6). A party must cite

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<sup>1</sup> Defendant filed a counterclaim against plaintiff. The trial court denied defendant's motion for summary disposition of the counterclaim, but rather, granted summary disposition in favor of plaintiff. Defendant has not filed a cross appeal regarding this ruling.

authority in support of its position. *Caldwell v Chapman*, 240 Mich App 124, 132; 610 NW2d 264 (2000). A party may not merely announce its position and expect this Court to discover and rationalize the basis for the claims. *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). An appellant's failure to properly address the merits of a claim of error with citation to authority constitutes abandonment of the issue. *Woods v SLB Prop Mgt, LLC*, 277 Mich App 622, 626-627; 750 NW2d 228 (2008). When an appellant fails to challenge the basis of the ruling by the trial court, we need not even consider granting the party the relief requested. *Derderian v Genesys Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004).

In the present case, plaintiff owns and operates an apartment complex that is exempt from taxation, MCL 125.1415a. Defendant charged plaintiff for water improvement ready to serve fees. Although these charges are for the water and sewer service provided to the apartment complex, plaintiff contends that the charges directly contravene the statutory tax exemption and are therefore unlawful and void. Plaintiff contends that defendant is engaging in improper taxation based on the referendum that addressed the method of payment for the water system upgrade. However, this referendum was merely advisory in nature, and plaintiff fails to cite case law that this referendum supplants defendant's authority to assess fees for the provision of utilities and other services. *Peterson Novelties, Inc*, 259 Mich App at 14. Further, plaintiff ignores the factual evidence wherein defendant intended to require tax exempt entities, such as churches and schools, to pay their share for the system through fees. MCR 7.212(C)(6). The trial court held that defendant did not improperly tax plaintiff, but rather, properly charged a user fee, and cited case law in support. Plaintiff failed to address the merits of the trial court's ruling. *Derderian*, 263 Mich App at 381. Accordingly, plaintiff's challenge to the nature of the fee as a tax has been abandoned. *Woods*, 277 Mich App at 626-627.

Next, plaintiff alleges defendant improperly calculated ready to serve fees by charging for non-existent "phantom" meters that were not authorized by township ordinance. Once again, plaintiff failed to challenge the basis of the trial court's ruling. *Derderian*, 263 Mich App at 381. Accordingly, plaintiff cannot establish entitlement to appellate relief. *Woods*, 277 Mich App at 626-627.

Affirmed.

/s/ Jane M. Beckering  
/s/ Karen M. Fort Hood  
/s/ Cynthia Diane Stephens